

## **IC 6-3-3**

### **Chapter 3. Credits**

#### **IC 6-3-3-1**

##### **Amounts deducted and withheld**

Sec. 1. The amount deducted and withheld as tax under IC 6-3-4-8, IC 6-3-4-12, and IC 6-3-4-13 during any taxable year shall be allowed as a credit to the taxpayer against the tax imposed on him by IC 6-3-2. *(Formerly: Acts 1963(ss), c.32, s.301; Acts 1965, c.233, s.15.) As amended by P.L.2-1988, SEC.8.*

#### **IC 6-3-3-2a**

##### **Corporations**

*Note: This version of section effective until 1-1-2003. See also following repeal of this section, effective 1-1-2003.*

Sec. 2. Corporations shall be entitled to a credit, not to exceed the amount of the tax imposed by IC 6-3-2, against the tax imposed by IC 6-3-2 for any taxable year in an amount equal to any tax imposed on gross income by IC 6-2.1-2 for the same taxable year. *(Formerly: Acts 1963(ss), c.32, s.302.) As amended by P.L.2-1988, SEC.9.*

#### **IC 6-3-3-2b**

##### **Repealed**

*(Repealed by P.L.192-2002(ss), SEC.191.)*

*Note: This repeal of section effective 1-1-2003. See also preceding version of this section, effective until 1-1-2003.*

#### **IC 6-3-3-3**

##### **Taxes paid to other states**

Sec. 3. (a) Whenever a resident person has become liable for tax to another state upon all or any part of his income for a taxable year derived from sources without this state and subject to taxation under IC 6-3-2, the amount of tax paid by him to the other state shall be credited against the amount of the tax payable by him. Such credit shall be allowed upon the production to the department of satisfactory evidence of the fact of such payment, except that such application for credit shall not operate to reduce the tax payable under IC 6-3-2 to an amount less than would have been payable were the income from the other state ignored. The credit provided for by this subsection shall not be granted to a taxpayer when the laws of the other state, under which the adjusted gross income in question is subject to taxation, provides for a credit to the taxpayer substantially similar to that granted by subsection (b).

(b) Whenever a nonresident person has become liable for tax to the state where he resides upon his income for the taxable year derived from sources within this state and subject to taxation under IC 6-3-2, the proportion of tax paid by him to the state where he resides that his income subject to taxation under IC 6-3-2 bears to his income upon which the tax so payable to the other state was imposed shall be

credited against the tax payable by him under IC 6-3-2, but only if the laws of the other state grant a substantially similar credit to residents of this state subject to income tax under the laws of such other state, or impose a tax upon the income of its residents derived from sources in this state and exempt from taxation the income of residents of this state. No credit shall be allowed against the amount of the tax on any adjusted gross income taxable under IC 6-3-2 that is exempt from taxation under the laws of the other state.

*(Formerly: Acts 1963(ss), c.32, s.303.) As amended by P.L.2-1988, SEC.10.*

### **IC 6-3-3-4**

#### **Repealed**

*(Repealed by Acts 1977, P.L.78, SEC.6.)*

### **IC 6-3-3-4.1**

#### **Repealed**

*(Repealed by Acts 1981, P.L.25, SEC.9.)*

### **IC 6-3-3-5**

#### **Charitable contributions to institutions of higher education within state**

Sec. 5. (a) At the election of the taxpayer, there shall be allowed, as a credit against the adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for the taxable year, an amount (subject to the applicable limitations provided by this section) equal to fifty percent (50%) of the aggregate amount of charitable contributions made by such taxpayer during such year to institutions of higher education located within Indiana, to any corporation or foundation organized and operated solely for the benefit of any such institution of higher education, or to the associated colleges of Indiana.

(b) In the case of a taxpayer other than a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed one hundred dollars (\$100) in the case of a single return or two hundred dollars (\$200) in the case of a joint return.

(c) In the case of a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed:

- (1) ten percent (10%) of such corporation's total adjusted gross income tax under IC 6-3-1 through IC 6-3-7 for such year (as determined without regard to any credits against that tax); or
- (2) one thousand dollars (\$1,000);

whichever is less.

(d) For purposes of this section, the term "institution of higher education" means any educational institution located within Indiana:

- (1) which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on;
- (2) which regularly offers education at a level above the twelfth grade;
- (3) which regularly awards either associate, bachelors, masters, or

doctoral degrees, or any combination thereof; and

(4) which is duly accredited by the North Central Association of Colleges and Schools, the Indiana state board of education, or the American Association of Theological Schools.

(e) The credit allowed by this section shall not exceed the amount of the adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for the taxable year, reduced by the sum of all credits (as determined without regard to this section) allowed by IC 6-3-1 through IC 6-3-7.

(f) Any taxpayer subject to an income tax under the provisions of IC 6-2.1 as well as under the provisions of IC 6-3-1 through IC 6-3-7 may elect to claim the credit allowed by this section against the income tax imposed by IC 6-2.1, but in no event shall a credit be claimed against both such taxes.

*(Formerly: Acts 1963(ss), c.32, s.305; Acts 1967, c.201, s.1; Acts 1969, c.326, s.4; Acts 1971, P.L.64, SEC.8.) As amended by Acts 1978, P.L.45, SEC.1; Acts 1981, P.L.77, SEC.10; P.L.20-1984, SEC.4; P.L.66-1988, SEC.1; P.L.5-1995, SEC.6.*

### **IC 6-3-3-5.1**

#### **Contributions to twenty-first century scholars program; tax credits; amount**

Sec. 5.1. (a) At the election of the taxpayer, a credit against the adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for the taxable year, is permitted in an amount (subject to the applicable limitations provided by this section) equal to fifty percent (50%) of the aggregate amount of contributions made by the taxpayer during the taxable year to the twenty-first century scholars program support fund established under IC 20-12-70.1-5.

(b) In the case of a taxpayer other than a corporation, the amount allowable as a credit under this section for any taxable year may not exceed:

- (1) one hundred dollars (\$100) in the case of a single return; or
- (2) two hundred dollars (\$200) in the case of a joint return.

(c) In the case of a taxpayer that is a corporation, the amount allowable as a credit under this section for any taxable year may not exceed the lesser of the following amounts:

- (1) Ten percent (10%) of the corporation's total adjusted gross income tax under IC 6-3-1 through IC 6-3-7 for the taxable year (as determined without regard to any credits against that tax).
- (2) One thousand dollars (\$1,000).

(d) The credit permitted under this section may not exceed the amount of the adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for the taxable year, reduced by the sum of all credits (as determined without regard to this section) allowed by IC 6-3-1 through IC 6-3-7.

(e) Any taxpayer subject to an income tax under IC 6-2.1 as well as under IC 6-3-1 through IC 6-3-7 may elect to claim the credit allowed by this section against the income tax imposed by IC 6-2.1, but may not claim a credit against both of these taxes.

*As added by P.L.56-1990, SEC.1.*

### **IC 6-3-3-6**

#### **Repealed**

*(Repealed by Acts 1981, P.L.25, SEC.9.)*

### **IC 6-3-3-7**

#### **Repealed**

*(Repealed by P.L.96-1989, SEC.25.)*

### **IC 6-3-3-8**

#### **Repealed**

*(Repealed by Acts 1981, P.L.25, SEC.9.)*

### **IC 6-3-3-9**

#### **Unified tax credit for the elderly**

Sec. 9. (a) The credit provided by this section shall be known as the unified tax credit for the elderly.

(b) As used in this section, unless the context clearly indicates otherwise:

(1) "Household federal adjusted gross income" means the total adjusted gross income, as defined in Section 62 of the Internal Revenue Code, of an individual, or of an individual and his spouse if they reside together for the taxable year for which the credit provided by this section is claimed.

(2) "Household" means a claimant or, if applicable, a claimant and his or her spouse if the spouse resides with the claimant and "household income" means the income of the claimant or, if applicable, the combined income of the claimant and his or her spouse if the spouse resides with the claimant.

(3) "Claimant" means an individual, other than an individual described in subsection (c) of this section, who:

(A) has filed a claim under this section;

(B) was a resident of this state for at least six (6) months during the taxable year for which he or she has filed a claim under this section; and

(C) was sixty-five (65) years of age during some portion of the taxable year for which he has filed a claim under this section or whose spouse was either sixty-five (65) years of age or over during the taxable year.

(c) The credit provided under this section shall not apply to an individual who, for a period of at least one hundred eighty (180) days during the taxable year for which he has filed a claim under this section, was incarcerated in a local, state, or federal correctional institution.

(d) The right to file a claim under this section shall be personal to the claimant and shall not survive his death, except that a surviving spouse of a claimant is entitled to claim the credit provided by this section. For purposes of determining the amount of the credit a surviving spouse is entitled to claim under this section, the deceased spouse shall be treated as having been alive on the last day of the taxable year in which the deceased spouse died. When a claimant dies after having filed a timely claim, the amount thereof shall be disbursed

to another member of the household as determined by the commissioner. If the claimant was the only member of his household, the claim may be paid to his executor or administrator, but if neither is appointed and qualified within two (2) years of the filing of the claim, the amount of the claim shall escheat to the state.

(e) For each taxable year, subject to the limitations provided in this section, one (1) claimant per household may claim, as a credit against Indiana adjusted gross income taxes otherwise due, the credit provided by this section. If the allowable amount of the claim exceeds the income taxes otherwise due on the claimant's household income or if there are no Indiana income taxes due on such income, the amount of the claim not used as an offset against income taxes after audit by the department, at the taxpayer's option, shall be refunded to the claimant or taken as a credit against such taxpayer's income tax liability subsequently due.

(f) No claim filed pursuant to this section shall be allowed unless filed within six (6) months following the close of claimant's taxable year or within the extension period if an extension of time for filing the return has been granted under IC 6-8.1-6-1, whichever is later.

(g) The amount of any claim otherwise payable under this section may be applied by the department against any liability outstanding on the books of the department against the claimant, or against any other individual who was a member of his household in the taxable year to which the claim relates.

(h) The amount of a claim filed pursuant to this section by a claimant that either (i) does not reside with his spouse during the taxable year, or (ii) resides with his spouse during the taxable year and only one (1) of them is sixty-five (65) years of age or older at the end of the taxable year, shall be determined in accordance with the following schedule:

HOUSEHOLD FEDERAL ADJUSTED GROSS INCOME FOR TAXABLE YEAR		CREDIT
less than \$1,000		\$100
at least \$1,000, but less than \$3,000		\$ 50
at least \$3,000, but less than \$10,000		\$ 40

(i) The amount of a claim filed pursuant to this section by a claimant that resides with his spouse during his taxable year shall be determined in accordance with the following schedule if both the claimant and spouse are sixty-five (65) years of age or older at the end of the taxable year:

HOUSEHOLD FEDERAL ADJUSTED GROSS INCOME FOR TAXABLE YEAR		CREDIT
less than \$1,000		\$140
at least \$1,000, but less than \$3,000		\$ 90
at least \$3,000, but less than \$10,000		\$ 80

(j) The department may promulgate reasonable rules under IC 4-22-2 for the administration of this section.

(k) Every claimant under this section shall supply to the department on forms provided under IC 6-8.1-3-4, in support of his claim,

reasonable proof of household income and age.

(l) Whenever on the audit of any claim filed under this section the department finds that the amount of the claim has been incorrectly determined, the department shall redetermine the claim and notify the claimant of the redetermination and the reasons therefor. The redetermination shall be final.

(m) In any case in which it is determined that a claim is or was excessive and was filed with fraudulent intent, the claim shall be disallowed in full, and, if the claim has been paid or a credit has been allowed against income taxes otherwise payable, the credit shall be canceled and the amount paid shall be recovered by assessment as income taxes are assessed and such assessment shall bear interest from the date of payment or credit of the claim, until refunded or paid at the rate determined under IC 6-8.1-10-1. The claimant in such a case commits a Class A misdemeanor. In any case in which it is determined that a claim is or was excessive and was negligently prepared, ten percent (10%) of the corrected claim shall be disallowed and, if the claim has been paid or credited against income taxes otherwise payable, the credit shall be reduced or canceled, and the proper portion of any amount paid shall be similarly recovered by assessment as income taxes are assessed, and such assessment shall bear interest at the rate determined under IC 6-8.1-10-1 from the date of payment until refunded or paid.

*As added by Acts 1982, P.L.6, SEC.5. Amended by P.L.83-1983, SEC.1; P.L.73-1985, SEC.2.*

### **IC 6-3-3-10**

#### **Enterprise zone credit against qualified state tax liability**

Sec. 10. (a) As used in this section:

"Base period wages" means the following:

(1) In the case of a taxpayer other than a pass through entity, wages paid or payable by a taxpayer to its employees during the year that ends on the last day of the month that immediately precedes the month in which an enterprise zone is established, to the extent that the wages would have been qualified wages if the enterprise zone had been in effect for that year. If the taxpayer did not engage in an active trade or business during that year in the area that is later designated as an enterprise zone, then the base period wages equal zero (0). If the taxpayer engaged in an active trade or business during only part of that year in an area that is later designated as an enterprise zone, then the department shall determine the amount of base period wages.

(2) In the case of a taxpayer that is a pass through entity, base period wages equal zero (0).

"Enterprise zone" means an enterprise zone created under IC 4-4-6.1.

"Enterprise zone adjusted gross income" means adjusted gross income of a taxpayer that is derived from sources within an enterprise zone. Sources of adjusted gross income shall be determined with respect to an enterprise zone, to the extent possible, in the same manner that sources of adjusted gross income are determined with respect to

the state of Indiana under IC 6-3-2-2.

"Enterprise zone gross income" means gross income of a taxpayer that is derived from sources within an enterprise zone.

"Enterprise zone insurance premiums" means insurance premiums derived from sources within an enterprise zone.

"Monthly base period wages" means base period wages divided by twelve (12).

"Pass through entity" means a:

- (1) corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) partnership;
- (3) trust;
- (4) limited liability company; or
- (5) limited liability partnership.

"Qualified employee" means an individual who is employed by a taxpayer and who:

- (1) has his principal place of residence in the enterprise zone in which he is employed;
- (2) performs services for the taxpayer, ninety percent (90%) of which are directly related to the conduct of the taxpayer's trade or business that is located in an enterprise zone;
- (3) performs at least fifty percent (50%) of his services for the taxpayer during the taxable year in the enterprise zone; and
- (4) in the case of an individual who is employed by a taxpayer that is a pass through entity, was first employed by the taxpayer after December 31, 1998.

"Qualified increased employment expenditures" means the following:

- (1) For a taxpayer's taxable year other than his taxable year in which the enterprise zone is established, the amount by which qualified wages paid or payable by the taxpayer during the taxable year to qualified employees exceeds the taxpayer's base period wages.
- (2) For the taxpayer's taxable year in which the enterprise zone is established, the amount by which qualified wages paid or payable by the taxpayer during all of the full calendar months in the taxpayer's taxable year that succeed the date on which the enterprise zone was established exceed the taxpayer's monthly base period wages multiplied by that same number of full calendar months.

"Qualified state tax liability" means a taxpayer's total income tax liability incurred under:

- (1) IC 6-2.1 (gross income tax) with respect to enterprise zone gross income;
- (2) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax) with respect to enterprise zone adjusted gross income;
- (3) IC 27-1-18-2 (insurance premiums tax) with respect to enterprise zone insurance premiums; and
- (4) IC 6-5.5 (the financial institutions tax);

as computed after the application of the credits that, under IC 6-3.1-1-2, are to be applied before the credit provided by this

section.

"Qualified wages" means the wages paid or payable to qualified employees during a taxable year.

"Taxpayer" includes a pass through entity.

(b) A taxpayer is entitled to a credit against the taxpayer's qualified state tax liability for a taxable year in the amount of the lesser of:

(1) the product of ten percent (10%) multiplied by the qualified increased employment expenditures of the taxpayer for the taxable year; or

(2) one thousand five hundred dollars (\$1,500) multiplied by the number of qualified employees employed by the taxpayer during the taxable year.

(c) The amount of the credit provided by this section that a taxpayer uses during a particular taxable year may not exceed the taxpayer's qualified state tax liability for the taxable year. If the credit provided by this section exceeds the amount of that tax liability for the taxable year it is first claimed, then the excess may be carried back to preceding taxable years or carried over to succeeding taxable years and used as a credit against the taxpayer's qualified state tax liability for those taxable years. Each time that the credit is carried back to a preceding taxable year or carried over to a succeeding taxable year, the amount of the carryover is reduced by the amount used as a credit for that taxable year. Except as provided in subsection (e), the credit provided by this section may be carried forward and applied in the ten (10) taxable years that succeed the taxable year in which the credit accrues. The credit provided by this section may be carried back and applied in the three (3) taxable years that precede the taxable year in which the credit accrues.

(d) A credit earned by a taxpayer in a particular taxable year shall be applied against the taxpayer's qualified state tax liability for that taxable year before any credit carryover or carryback is applied against that liability under subsection (c).

(e) Notwithstanding subsection (c), if a credit under this section results from wages paid in a particular enterprise zone, and if that enterprise zone terminates in a taxable year that succeeds the last taxable year in which a taxpayer is entitled to use the credit carryover that results from those wages under subsection (c), then the taxpayer may use the credit carryover for any taxable year up to and including the taxable year in which the enterprise zone terminates.

(f) A taxpayer is not entitled to a refund of any unused credit.

(g) A taxpayer that:

(1) does not own, rent, or lease real property outside of an enterprise zone that is an integral part of its trade or business; and

(2) is not owned or controlled directly or indirectly by a taxpayer that owns, rents, or leases real property outside of an enterprise zone;

is exempt from the allocation and apportionment provisions of this section.

(h) If a pass through entity is entitled to a credit under subsection (b) but does not have state tax liability against which the tax credit may be applied, an individual who is a shareholder, partner, beneficiary, or



member of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder, partner, beneficiary, or member is entitled.

The credit provided under this subsection is in addition to a tax credit to which a shareholder, partner, beneficiary, or member of a pass through entity is entitled. However, a pass through entity and an individual who is a shareholder, partner, beneficiary, or member of a pass through entity may not claim more than one (1) credit for the qualified expenditure.

*As added by P.L.23-1983, SEC.12. Amended by P.L.9-1986, SEC.6; P.L.347-1989(ss), SEC.9; P.L.120-1999, SEC.3; P.L.14-2000, SEC.17.*